

3/A
Pre Amend
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Shultz et al.)
Serial No.: Not Yet Assigned) Attorney Docket:
DIV of 09/406,147) 6868/81579
PRO-105.0 DIV I
Filed: February 9, 2001)
For: EXOGENOUS NUCLEIC ACID DETECTION) Art Group:
Not yet assigned
Examiner: Not yet assigned)

PRELIMINARY AMENDMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

This paper is a preliminary Amendment to cancel the claims of the originally-filed parent application that are drawn to non-elected groups. Please enter this Preliminary Amendment and amend the accompanying application as follows.

IN THE SPECIFICATION:

Please replace the "Cross-References to Related Applications" section with the following.

CROSS-REFERENCE TO RELATED APPLICATIONS

This application is a division of allowed U.S. Patent application Serial No. 09/406,147 filed September 27, 1999,

Preliminary Amendment
showing changes for
DIV of 09/406,147
filed February 9, 2001

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55. (Amended) The composition of matter according to [claim 181] claim 53, wherein said purified and isolated enzyme whose activity in the presence of pyrophosphate is to release identifier nucleotides is a thermostable polymerase.

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which is a continuation-in-part of allowed U.S. Patent application Serial No. 09/358,972 filed July 21, 1999, which is a continuation-in-part of U.S. Patent Application Serial No. 09/252,436 filed February 18, 1999, now U.S. Patent No. 6,159,693 issued December 12, 2000, which is a continuation-in-part of allowed 09/042,287, filed March 14, 1998.--

IN THE CLAIMS

Please cancel claims 1-42 and 57-72.

Please amend claim 55 so that it reads as follows.

55. (Amended) The composition of matter according to claim 53, wherein said purified and isolated enzyme whose activity in the presence of pyrophosphate is to release identifier nucleotides is a thermostable polymerase.

REMARKS

Continued prosecution and consideration of the claimed subject matter in the accompanying patent application is respectfully requested.

I. The Application

The enclosed application is a true copy of the application filed for 09/406,147, filed September 27, 1999, with

the exception of the current mailing label number on the front page of the specification.

II. The Amendments

A restriction requirement in the parent case, U.S. Patent Application Serial No. 09/406,147 filed September 27, 1999, divided the claims into the two groups listed below.

Group I: claims 1-42 and 57-72

Group II: claims 43-56

In this divisional application of the allowed parental application, the second group of claims are elected for examination. As a result, claims 1-42 and 57-72 were cancelled.

It is noted that claims 23-24, 67 and 70-72 were cancelled without prejudice toward further prosecution during the prosecution of the parental case. We reserved the right to examine those claims at a later date.

Claim 55 was amended to correct an inadvertent, obvious typographical error. A copy of the requested claim amended showing the requested claim changes is enclosed.

Claims 43-56 are in the case and are before the Examiner. It is thus seen that no new matter has been presented. A complete, clean copy of the claims before the Examiner is enclosed herewith.

SUMMARY

The claims corresponding to the non-elected group of claims were cancelled in this division application in which Group II (claims 43-56) is elected for examination. An obvious typographical error in claim 55 was corrected.

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The application is believed to be in condition for allowance. An early notice to that effect is earnestly solicited.

A filing fee is enclosed based on the number of independent and dependent claims in the application after entry of the Preliminary Amendment. No further fee or petition is believed to be necessary. However, should any further fee be needed, please charge our Deposit Account No. 23-0920, and deem this paper to be the required petition.

The Examiner is requested to phone the undersigned should any questions arise that can be dealt with over the phone to expedite this prosecution.

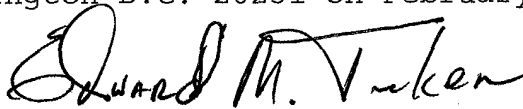
Respectfully submitted,


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CERTIFICATE OF EXPRESS MAILING

I hereby certify that this Preliminary Amendment together with the stated enclosures are being deposited with the United States Postal Service with Express Mailing Label No. EL769849422US in an envelope addressed to: Commissioner for Patents, Washington D.C. 20231 on February 9, 2001.


Edward M. Vinken

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Enclosures:

Utility Patent Application Transmittal (1pg)
Application Data Sheet (6pgs)
Fee Transmittal (1pg)
Check No. 066239 in the amount of \$710.00
Copy of Spec., claims & Abstract of 09/406,147 (194 pg)
Copy of executed Decl./Power of Atty. for 09/406,147 (12 pg)
Copy of Formal Drawings of 09/406,147 (2 pg)
Copy of Sequence Listing of 09/406,147 (29 pg)
Statement under 37 C.F.R. 1.821(e&f)
Photocopy of CRF for 09/406,147 (1 pg)
Copy of Recorded Assignment of 09/406,147 (11 pg)
Information Disclosure Statement (4 pgs)
Form PTO-1449 (7 pgs)